

Notice of Allowability

Application No.

09/676,448

Examiner

Calvin L. Hewitt II

Applicant(s)

CARTWRIGHT, SHAWN D.

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 22 December 2005.
2. ☒ The allowed claim(s) is/are 69-87.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10-1-05, 11-10-05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 4-8-05, 1-28-03, 10-17-05, 11-2-05
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with R. Lewis Gable on 22 December 2005.

2. The application has been amended as follows-
3. Claims 88-89 have been canceled.

In claim 69, section b), line 1, replace "receiving the consideration" with "receiving a consideration".

In claim 69, section c) i), replace "permitting the one user" with "permitting the at least one user".

In claim 69, section c) iii), line 1, replace "the one user's consideration" with "the at least one user's consideration".

In claim 69, section e), lines 2-3 replace "a group of game parameters comprising at least one gaming action of the at least one user, the one game environment, and/or the one set of demographics of the at least one user" with "a

group of game parameters comprising the tracked activity of the at least one gaming action of the at least one user and, the one game environment or the one set of demographics of the least one user".

In claim 69, section f), line 2, replace "gaming action of the one user" with "gaming action of the at least one user"

In claim 83, section b), replace "creating an account for the one user" with "creating an account for the at least one user".

In claim 83, section c), replace "enabling the one user" with "enabling the at least one user".

In claim 83, section g), line 2, replace "of the one user" with "of the at least one user".

In claim 83, section h), line 2, replace "the gaming action of the one user" with "the gaming action of the at least one user".

In claim 84, line 3, replace " the group or game parameters" with "the group of game parameters".

In claim 85, section d), line 1, replace "permitting the one user" with "permitting the at least one user".

In claim 85, section e), line 1, replace "determining if the one user" with "determining if the at least one user".

In claim 85, section h), line 2, replace "the gaming action of the one user" with "the game action of the at least one user".

Status of Claims

4. Claims 69-87 have been examined.
5. Claims 69-87 have been allowed.

Reason for Allowance

6. The present invention is directed to gaming. Specifically, the instant application is directed to method for enhancing game play. Prior art gaming systems are old and well-known. Companies such as Sega and Midway teach coin-operated video games, while Atari, Colecovision, Intellivision, Nintendo, Sega, Sony and more recently Microsoft teach console-based systems where games are stored on a medium such as a cartridge or optical disk, and the medium is inserted into the console to effect gameplay. Some of the prior art gaming systems offer "continuation" where play is resumed after a loss of game lives (e.g. SoulCalibur), an options screen where a player can obtain new gaming objects (e.g. Age of Empires), and/or an in-game object select option (e.g. Shrek 2). None of these systems, however, disclose offering a game object to a user for a price and allowing said user to access and incorporate said object in a game without interrupting the game. Kim discloses game features such as

“power-ups” that are incorporated within a game and can be used to enhance game play (US 6,928,414, column 5, lines 10-53). Kim denotes these game features as advertisements (‘414, abstract) as they are associated with a company logo (‘414, column 4, lines 59-63) and mentions that they can be purchased. Kim, however, is silent regarding a specific purchasing method for obtaining these features (‘414, column 4, lines 45-50). Rashkovsky et al. (US 6,616,533) teach interrupting game play to allow a user to purchase objects related to a game such as action figures (‘533, abstract; figures 1-3 and 5; column 1, lines 28-35; column 2, lines 8-19; column 3, lines 6-18; column 4, lines 27-39) and providing a discount to a user if the user has achieved a certain score (‘533, column 4, lines 58-67).

Martinez et al. (US 6,119,229) teach a system for obtaining digital objects in a gaming environment (‘229, column 3, lines 1-50; column 4, lines 32-64; column 8, lines 13-48; column 29, lines 29-60). Roskowski et al. (US 5,624,316) disclose downloading and incorporating game features into a game (‘316, abstract; figure 1; column/line 5/26-6/62), while Heckel (US 6,036,601) teach monitoring a user’s progress in a game environment and sending advertisements to the user based on said monitoring (‘301, column/line 4/20-5/40). To one of ordinary skill, therefore, the closest prior art teaching to Applicant’s claims is a combination of the Martinez et al., Roskowski et al. and Heckel teachings where a user is presented, in a game environment, with an ad for a game object based

on gameplay, the user downloads the object and the object is incorporated into the game. However, the instant invention is distinguished from the prior art singly or in combination as the system tracks a user's gaming actions, the system determines whether a user is eligible to purchase a game object based on the user's account balance, the system presents an offer to the user to purchase the game object based on at least said tracked gaming action, the user purchases and is supplied with the game object without interrupting the gaming action, and the object is incorporated into the game.

7. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
 - "MICROSOFT: Key players tap Microsoft DirectPlay to deliver online gaming to the masses" M2 PressWire, April 29, 1997
 - Gilmore et al. disclose advertising within video games

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 2100
Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for formal communications intended for entry and after-final communications),

or:

(571) 273-6709 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Calvin Loyd Hewitt II
December 30, 2005

